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FW: NPDES QAPP & toxicity testing
Breuer, Rich@Waterboards [rich.breuer@waterboards.ca.gov]

You forwarded this message on 6/24/2015 9:07 AM.

Sent: Friday, May 15, 2015 2:56 PM
To: [REDACTED] Breuer, Rich@Waterboards [rich.breuer@waterboards.ca.gov]
Cc: Denton, Debra
Attachments: Memo response to ATP rejec~1.doc (313 KB) [Preview on web]

From: Breuer, Rich@Waterboards
Sent: Friday, May 15, 2015 2:53 PM
To: Outwin-Beals, Brandi@Waterboards; Barker, David@Waterboards
Subject: RE: NPDES QAPP & toxicity testing

This is a memo I just got approved today to send out to AEOs and NPDES managers. I am waiting for one of the referred to attachments from USEPA before sending out.
For our talk Monday

Rich Breuer
Assistant Director, Office of Information Management and Analysis
State Water Resources Control Board
1001 I Street, Room 16-03
Sacramento, California 95814
Desk phone: (916) 341-5220 Cell: (916) 956-9604
Mailing address: P.O. Box 100 Sacramento, CA 95812-0100

http://www.waterboards.ca.gov/water_issues/programs/swamp/

-----Original Appointment-----
From: Outwin-Beals, Brandi@Waterboards
Sent: Wednesday, April 22, 2015 11:08 AM
To: Outwin-Beals, Brandi@Waterboards; Barker, David@Waterboards; Breuer, Rich@Waterboards
Subject: NPDES QAPP & toxicity testing
When: Monday, May 18, 2015 3:00 PM-4:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: WB-RB9-TemeculaBasin

<< Message: RE: potential meetings between OIMA and R9- May 18th >>

Hi Rich-

I see from Jimmy's email that you would like to meet with us to talk about QAPP's and toxicity testing. I can't see your schedule on Outlook, so I'm hoping the time I'm suggesting works for you. Please let me know if otherwise, and I'll see what I can do to find another time.

Thanks-
Brandi

State Water Resources Control Board
DRAFT

TO: Water Board Managers and Staff

FROM: Renee Spears, SWRCB Quality Assurance Officer

OFFICE OF INFORMATION MANAGEMENT AND ANALYSIS

DATE: April 27, 2015

SUBJECT: Withdrawal of Approval of the SWRCB Alternative Test Procedure for the Two-concentration Test Design for NPDES Effluent testing when using the TST

The purpose of this memo is to inform you of the February 11, 2015 notice of withdrawal of the United States Environmental Protection Agency's (USEPA) approval of the State Water Resources Control Board's (State Water Board) Alternative Test Procedure (ATP) request. USEPA had approved the request to use the two-concentration test design when using the Test of Significant Toxicity (TST). This memo includes our interpretation of the withdrawal and its ramifications for the Water Boards' permitting process requirements.

History and Timeline

In a letter dated February 12, 2014, the SWRCB Quality Assurance Officer, Renee Spears, submitted an ATP request to USEPA Region 9 for the statewide use of a two-concentration toxicity test design when using the Test of Significant Toxicity (TST) approach (Attachment 1). This two-concentration test design is composed of a single effluent concentration and a control concentration.

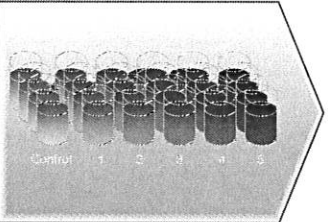
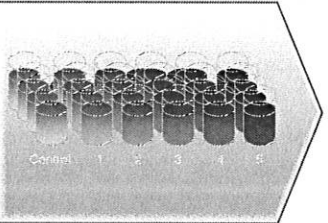
The TST statistical analysis only requires the biological responses from the two-concentration test design. Currently the multiple-concentration test design (a minimum of five effluent concentrations compared to a control concentration) is required under Code of Federal Regulations, title 40, section 136.3. The two-concentration test design is more cost effective when using the TST since, at a minimum, the number of concentrations necessary is reduced by four (including all the replicates).

As stated in the February 12th letter, State Water Board staff is developing a toxicity amendment to the Water Quality Control Plan for Enclosed Bays and Estuaries of California that will standardize the regulation of aquatic toxicity for all non-oceanic surface waters. U.S. EPA's TST approach is an essential component of this draft toxicity amendment as it forms the basis for utilizing numeric water quality objectives and acts as the primary means of determining compliance with the proposed effluent limitations. It provides a definitive value of whether a sample is toxic versus an interpreted (and debatable) value as determined by the NOEC and IC₂₅ approaches.

USEPA approved the ATP request on March 17th 2014 (Attachment 2). In June 2014, the approval was challenged in court on procedural grounds under the Administrative Procedures Act by the Southern California Alliance of Publicly Owned Treatment Works (SCAP) and the Central Valley Clean Water Association

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

Figure 1. Toxicity Testing and Analysis Pathways for NPDES Permits Requiring the Multiple-Concentration Test Design

| Code of Federal Regulations Part 136 | | | | | |
|--|--|---|--|---|---|
| | Test Design | Biological Responses | Statistical Analysis | Data Interpretation | Toxicity Determination |
| Permit Specifies What Test Species and Method | Minimum = 5 Effluent Concentrations plus Control Concentration | | Permit Specifies Either Hypothesis tests or Point Estimate | | Compared to the Permit limit/Trigger |
| For Each Test Species There is a list of up to 23 Summary Test Conditions that are Required or Recommended |  Example: 5 [] and a control [] |  Example: 5 [] and a control [] | % Survival, Reduction in Growth, Reproduction, etc. Hypothesis Test: (TST) Instream Waste [] and a Control [] | Simple: Either Pass/Fail, and Percent Effect | Definitive Result |
| | | % Survival, Reduction in Growth, Reproduction, etc. Hypothesis Test: NOEC Point Estimate: LC50 for Survival or EC25 for Growth | | Complex: Requires Greater Expertise to Determine Results | Interpretive Result |

What is Required and What is Discretionary Within the Permit?

For those permits specified which are required to use the multiple-concentration test design,

Figure 1. illustrates the following:

1. The permit specifies what test species and method to be used
2. The multiple-concentration test design requirement is required under Code of Federal Regulations, title 40, section 136.3
3. The biological responses are also incorporated by reference in Code of Federal Regulations, title 40, section 136.3
4. The permit specifies the statistical analysis, such as:
 - a. A hypothesis test using the TST
 - b. A hypothesis test using the NOEC
 - c. A point estimate test using LC50 or EC25